IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 518 of 2001

with

SPECIAL CIVIL APPLICATION No 374 of 2001

with

SPECIAL CIVIL APPLICATION No 1771 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

SECRETARY AHMEDABAD MUNICIPAL SERVANT

Appearance:

1. Special Civil Application No. 518 of 2001

MR RM CHHAYA for Petitioner No. 1

MR AM RAVAL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 20/07/2004

COMMON ORAL JUDGEMENT

1.0. Since the questions involved in these petitions are identical, they are heard together and they are now being disposed of this common judgment.

2.1. Special Civil Application No. 518 of 2001, is filed by the petitioner-Corporation i.e. the employer of the workmen, challenging that part of the award, whereby the Tribunal has vide award dated 30th October, 20002 in Reference [I.T.] No. 782 of 1984 has revised the payscale of Telephone attendant and had also given the notional benefit w.e.f. 1st January, 1991 to 31st December, 1998 alongwith arrears for the said period.

2.2. Special Civil Application No. 374 of 2001 is filed by the respondent-workmen challenging that part of the award whereby, they have been denied the effect of the payscale from the date of the statement of claim, though notional effect from 1st January, 1991 to 31st December, 1998 has been passed in their favour.

2.3. In Special Civil Application No. 1171 of 2001 the petitioner-Corporation has challenged the judgment and award of the Tribunal dated 18th July, 2000 in Reference [I.T.] No. 52 of 1986 whereby, the Tribunal has revised the payscale of Telephone Operator and has also given notional benefit from 1st January, 1991 and 31st December, 1998.

3.0. Mr. Chhaya learned advocate for the petitioner-Corporation has submitted that both the cadres are different and after 1st January, 1986, the workmen are not required to do any job. It is not open for the petitioner-Corporation to establish this point at this stage. The question which is required to be considered is whether, while deciding the issue the Tribunal has considered the work, which was required to be done by the employees. In para 8 of the award, the Tribunal has held that the work which was required to be done by the Telephone attendant and Telephone operator is equal and has no difference in parity with both the cadres. In my opinion, no error is committed by the Tribunal and, therefore, both the petitions filed by the petitioner-Corporation deserves to be dismissed.

3.1. Mr. Raval learned advocate for the respondent-workman has submitted that the Tribunal has wrongly given the effect from the date of the Reference.

In my opinion, the Tribunal while dealing with this contention, has considered the first request that was given in Reference [I.T.] No. 52 of 1980 and thereafter the Tribunal has given effect from 1st January, 1991. On the principle of parity, in both the cadres the Tribunal has given the effect to the respondent-workman. In my opinion, on the principle of parity, the effect given by the Tribunal from 1st January, 1991 is just and proper, otherwise, there will be industrial unrest amongst the same cadres. Apart from that, the Tribunal has given reasons for giving the said effect.

4.0. In the result, no case is made out by both the sides. Hence, the petitions are dismissed. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]
/phalguni/